IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHWESTERN DIVISION

DESTINY CHRISTESON,)
Plaintiff,)
v.) Case No. 18-05087-CV-SW-MDH-SSA
ANDREW SAUL,)
Commissioner of Social Security,)
Defendant.)

ORDER

Before the Court is Plaintiff's Attorney's Motion for an Award of Attorney Fees under 42 U.S.C. § 406(b). (Doc. 20). Plaintiff's Attorney seeks \$15,040.50. Section 206(b)(1)(A) of the Social Security Act, 42 U.S.C. § 406(b)(1)(A), provides that a court may award a "reasonable" attorney fee not in excess of 25% of past-due benefits under Title II of the Social Security Act for an attorney's representation of a plaintiff for Title II benefits before that court. In *Gisbrecht v. Barnhart*, 535 U.S. 789, 122 S. Ct. 1817 (2002), the Supreme Court set forth the method for calculating a "reasonable" 42 U.S.C. § 406(b) fee. Plaintiff's Attorney asserts and demonstrates that their request is consistent with *Gisbrecht* and Defendant agrees. (Doc. 21).

As Plaintiff has acknowledged, when an attorney receives fees under both the Equal Access to Justice Act and § 406(b), the attorney must refund the smaller fee to the claimant. *See Gisbrecht*, 535 U.S. at 796. Plaintiff's Attorney was previously awarded \$4,921.15 awarded in Equal Access to Justice Act fees. Therefore, Plaintiff's Attorney's Motion is **GRANTED**, and it is **ORDERED** to reimburse Plaintiff for \$4,921.25 awarded in Equal Access to Justice Act fees.

IT IS SO ORDERED.

Dated: November 6, 2020 /s/ Douglas Harpool

DOUGLAS HARPOOL United States District Judge